

REMARKS

Claims 11-18 are currently pending in this application.

Claim Rejections - 35 USC § 102

Claims 11-18 stand rejected under 35 USC § 102(b) as being anticipated by Paoletti (US 4,573,506, hereinafter “Paoletti”). Applicant respectfully traverses this rejection.

The present invention is an apparatus for isolating a cellular fluid within a non-contaminating environment, disrupting cell walls of cells in the cellular fluid (for example, bursting the cell walls of blood cells in blood) while maintaining the non-contaminating environment, and storing the disrupted cellular fluid within the isolated non-contaminating environment to prevent contamination before the fluid is used. The disrupted cellular fluid can then be removed from the non-contaminating environment in any of a number of ways, and it is contemplated that the apparatus will be discarded after use. The apparatus comprises a first sterile chamber into which the cellular fluid is placed. A sterile piston is used to displace the cellular fluid and push it through a bore into a second sterile chamber. The bore is shaped so that the cell walls of cells in the cellular fluid are disrupted (burst) when the fluid is transferred through it. The disrupted cellular fluid is stored in a second sterile chamber until needed. The second chamber, the piston, and the bore are integrally formed in a single body, and first and second containers having the first and second chambers, respectively, are conveniently sealed together when the apparatus is used. In essence, the apparatus is used simply by placing a cellular fluid into the first container, fitting the piston/second container snugly into the mouth of the first container, and pressing the two containers sharply together, thereby disrupting the cell walls of the cellular fluid and sealing the two containers together with the disrupted cellular fluid

inside. The sealed combined container conveniently stores the disrupted cellular fluid until needed without fear of contamination.

Regarding claim 11, Paoletti discloses a two-bottle assembly for preparing and dispensing a solution, which is easily distinguished from the present invention. In the embodiment referred to by the Examiner (Figs. 10-12), Paoletti discloses a first container (220) having a first chamber into which a fluid is placed, and a second chamber (210) adapted to receive the fluid from the first chamber. However, in contrast to the present invention, the second container does not have a piston means slideably receivable within the first chamber of the first container, wherein, on insertion of said piston means into said first chamber of said first container, fluid is displaced from said first chamber to said second chamber. The Examiner considers the nozzle head (13) to be a piston which is slideably receivable within the first chamber. This is clearly incorrect, since (a) the nozzle head (13) cannot slide into the first chamber, as it is clearly illustrated and described as being screwed into the stopper (30) of the first container (220) by means of the thread (14); and (b) the nozzle head (13) does not actually penetrate the first chamber of the first container (220), nor does it displace fluid therein. Instead, it simply screws into the stopper (30). The Collins English dictionary defines a piston as a "cylindrical part that slides to and fro in a hollow cylinder". Thus, the nozzle head (13) of Paoletti cannot properly be considered a piston which slides into the first chamber of the first container, as required by claim 11.

Furthermore, the Examiner also considers that fluid is displaced from the first chamber (220) to the second chamber (210) upon insertion of the nozzle head (13) into the first container (220). This is also clearly incorrect, as the nozzle head (13) does not displace any fluid when it is screwed into the stopper (30). In order to transfer fluid from the first chamber to the second

chamber, it is necessary to perform a separate operation on the first container (220), such as squeezing the first container (220).

Based on the arguments presented above, claim 11 is not anticipated by Paoletti. Claims 12-18 depend from claim 11. Therefore, without prejudice to their own individual merits, they are also allowable over Paoletti for the same reasons provided above. Withdrawal of the 35 USC § 102(b) rejection of claims 11-18 is respectfully requested.

Conclusion

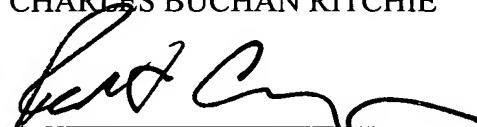
If the Examiner believes that any additional minor formal matters need to be addressed in order to place this application in condition for allowance, or that a telephone interview will help to materially advance the prosecution of this application, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendment and remarks, Applicant respectfully submits that the present application, including claims 11-18, is in condition for allowance and a notice to that effect is respectfully requested.

Respectfully submitted,

CHARLES BUCHAN RITCHIE

BY:


ROBERT E. CANNUSCIO
Registration No. 36,469
Drinker Biddle & Reath LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996
Tel: 215-988-3303
Fax: 215-988-2757
Attorney for Applicant